



PATENT

Customer No. 22,852

Attorney Docket No. 08702.0069-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jan Krzysztof Blusztajn et al.

Serial No.: 09/656,935

Filed: September 7, 2000

For: BMP-9 COMPOSITIONS AND
METHODS FOR INDUCING
DIFFERENTIATION OF
CHOLINERGIC NEURONS

Commissioner for Patents and Trademarks
Washington, DC 20231

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) Group Art Unit: 1632
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) Examiner: Anne Marie Baker
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Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated July 9, 2002, the Examiner required restriction under 35 U.S.C. § 121 between

Group I - Claims 1-6, drawn to a pharmaceutical composition comprising BMP-9, classified in class 530, subclass 350.

Group II - Claims 15 and 16, drawn to a pharmaceutical composition comprising BMP-2, classified in class 530, subclass 350.

Group III - Claims 15 and 16, drawn to a pharmaceutical composition comprising BMP-4, classified in class 530, subclass 350.

Group IV - Claims 15 and 16, drawn to a pharmaceutical composition comprising BMP-6, classified in class 530, subclass 350.

Group V - Claims 15 and 16, drawn to a pharmaceutical composition comprising BMP-7, classified in class 530, subclass 350.

Group VI - Claims 15 and 16, drawn to a pharmaceutical composition comprising BMP-12, classified in class 530, subclass 350.

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Group VII - Claims 7, 9, 11, 12, and 14, drawn to a method for *in vivo* differentiation or *in vivo* upregulation of particular genes, classified in class 514, subclass 2.

Group VIII - Claims 8, 10, and 13, drawn to a method of cell therapy, classified in class 424, subclass 93.1 and class 424, subclass 93.21.

Applicants provisionally elect to prosecute Group VII, claims 7, 9, 11, 12 and 14 drawn to a method for *in vivo* differentiation or *in vivo* upregulation of particular genes, with traverse.

Applicants believe that the restriction requirement is improper. Although the claims set forth in Groups VII and VIII may be patentably distinct and are classified in different classes, the groups are related in that they are both drawn to methods comprising BMP-9, for example, for the treatment of patients in need of differentiating or treatment of cholinergic neurons. Applicants submit therefore that a search of groups VII and VIII would overlap and there would not be a serious burden in examining the groups together.

In view of the foregoing remarks applicants respectfully request the requirement be withdrawn with respect to Groups VII and VIII and that these groups be examined together.

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Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 9, 2002

By:  41475 for

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